

Calendar No. 612

96TH CONGRESS
2D SESSION

S. 1878

[Report No. 96-570]

To improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 11 (legislative day, OCTOBER 4), 1979

Mr. GLENN introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

FEBRUARY 8 (legislative day, JANUARY 3), 1980

Reported by Mr. GLENN, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “General Accounting
4 Office Act of 1979”.

5 **TITLE I—GENERAL ACCOUNTING OFFICE**

6 **PROVISIONS**

7 **UNVOUCHERED EXPENDITURES**

8 **SEC. 101.** Section 117 of the Budget and Accounting
9 Procedures Act of 1950 (31 U.S.C. 67) is amended by adding
10 at the end thereof the following new subsection:

11 “(f)(1) Notwithstanding any provision of law which per-
12 mits an expenditure to be accounted for solely on the approv-
13 al, authorization, or certificate of the President of the United
14 States or an official of an executive agency, the Comptroller
15 General shall have access to such books, documents, papers,
16 records, and other information relating to any such expendi-
17 ture as may be necessary to enable him to determine whether
18 the expenditure was, in fact, actually made and whether such
19 expenditure was authorized by law. The provisions of this
20 paragraph may be superseded only by a provision of law en-
21 acted after the date of enactment of this paragraph which
22 specifically repeals or modifies the provisions of this para-
23 graph. In the case of an expenditure under section 102, 103,
24 105(d) (1), (3), or (5), or 106(b) (2) or (3), of title 3, United
25 States Code, the provisions of sections 102, 103, 105(d), and

1 106(b) of such title shall govern the examination of such ex-
2 penditures by the Comptroller General in lieu of the provi-
3 sions of this subsection.

4 “(2) With respect to any expenditure accounted for
5 solely on the approval, authorization, or certificate of the
6 President of the United States or an official of an executive
7 agency and notwithstanding any provision of law, no officer
8 or employee of the General Accounting Office may release
9 the findings of its audit of such expenditure or disclose any
10 books, documents, papers, records, or other information con-
11 cerning such expenditure to anyone not an officer or em-
12 ployee of the General Accounting Office, except to the Presi-
13 dent or the head of the agency concerned or, in the case of
14 unresolved discrepancies, ~~to a duly established committee or~~
15 ~~subcommittee of the Congress.~~ *to the Committee on Govern-*
16 *mental Affairs of the Senate, the Committee on Government*
17 *Operations of the House of Representatives, and to the Com-*
18 *mittees of the House and the Senate having legislative or*
19 *appropriations oversight with respect to the expenditure in*
20 *question.*

21 “(3)(A) Nothing in this subsection shall be construed as
22 affecting the authority contained in section 8(b) of the Central
23 Intelligence Agency Act of 1949.

24 “(B) The President may exempt from the provisions of
25 paragraph (1) of this subsection financial transactions which

1 relate to sensitive foreign intelligence or foreign counterintel-
2 ligence ~~activities~~ *activities, or sensitive law enforcement in-*
3 *vestigations if an audit proceeding pursuant to the provisions*
4 *of paragraph (1) of this subsection would expose the identify-*
5 *ing details of an active investigation or endanger the safety of*
6 *investigative or domestic intelligence sources involved in such*
7 *law enforcement investigations.* An exemption under this sub-
8 paragraph may be given for a class or category of financial
9 transactions.

10 “(C) Information concerning financial transactions taken
11 pursuant to section 8(b) of the Central Intelligence Agency
12 Act of 1949 and information concerning financial transac-
13 tions exempted from the provisions of paragraph (1) pursuant
14 to subparagraph (B) shall be reviewable by the Permanent
15 Select Committee on Intelligence of the House of Repre-
16 sentatives and the Select Committee on Intelligence of the
17 Senate.

18 “(4) *Not later than sixty days after the beginning of*
19 *each fiscal year starting on or after October 1, 1980, the*
20 *Director of the Office of Management and Budget shall*
21 *submit to the chairman of the Committees on the Budget and*
22 *the Committees on Appropriations of the Senate and the*
23 *House of Representatives, the Committee on Governmental*
24 *Affairs of the Senate, the Committee on Government Oper-*
25 *ations of the House of Representatives, and to the Comptrol-*

1 *ler General, a report listing every account potentially subject*
2 *to audit by the Comptroller General under paragraph (1)."*

3 **ENFORCEMENT OF ACCESS TO RECORDS**

4 **SEC. 102.** Section 313 of the Budget and Accounting
5 Act, 1921 (31 U.S.C. 54) is amended by inserting "(a)"
6 before "All" and by adding at the end the following new
7 subsections:

8 "(b) If any information, books, documents, papers, or
9 records requested under subsection (a) or any other provision
10 of law or agreement granting the Comptroller General a
11 right of access from any department or establishment have
12 not been made available to the Comptroller General within a
13 period of twenty calendar days after the request has been
14 delivered to the office of the head of the department or estab-
15 lishment involved, the Comptroller General, through any at-
16 torney designated by him, may, after twenty calendar days
17 notice to the Attorney General, apply to the United States
18 District Court for the District of Columbia for an order re-
19 quiring the production of such material by the head of the
20 department or establishment. The Attorney General is au-
21 thorized to represent the defendant official in such proceed-
22 ings. Any failure to obey an order of the court under this
23 subsection shall be treated by the court as a contempt
24 thereof.

1 “(e)(1) To assist in carrying out his functions, the
2 Comptroller General may sign and issue subpoenas requiring
3 the production of contractor and subcontractor records per-
4 taining to negotiated contracts and records of other non-Fed-
5 eral persons or organizations to which he has a right of
6 access by any law or agreement. Service of a subpoena issued
7 under this subsection may be made by anyone authorized by
8 the Comptroller General (A) by delivering a copy thereof to
9 the person named therein, or (B) by mailing a copy thereof by
10 certified or registered mail, return receipt requested, ad-
11 dressed to such person at his residence or principal place of
12 business. A verified return by the person serving the subpoena
13 setting forth the manner of service or, in the case of service
14 by certified or registered mail, the return post office receipt
15 signed by the person so served, shall be proof of service.

16 “(2) In case of failure to obey a subpoena issued under
17 paragraph (1), the Comptroller General, through any attor-
18 ney designated by him, may invoke the aid of any district
19 court of the United States in requiring the production of the
20 records involved. Any district court of the United States
21 within whose jurisdiction the contractor, subcontractor, or
22 other non-Federal person or organization is found or resides
23 or in which the contractor, subcontractor, or other non-Fed-
24 eral person or organization transacts business, may, in case
25 of refusal to obey a subpoena issued under this section, issue

1 ~~an order requiring compliance therewith. Any failure to obey~~
2 ~~an order of a court under this paragraph shall be treated by~~
3 ~~the court as a contempt thereof."~~

4 *ENFORCEMENT OF ACCESS TO RECORDS*

5 *SEC. 102. Section 313 of the Budget and Accounting*
6 *Act, 1921 (31 U.S.C. 54), is amended by designating the*
7 *existing paragraph as subsection (a) and by adding at the*
8 *end the following new subsections:*

9 *"(b)(1) When access to any books, documents, papers,*
10 *or records of any department or establishment is not made*
11 *available within a reasonable period of time, the Comptroller*
12 *General in his discretion may make a written request to the*
13 *head of the department or establishment concerned. Any such*
14 *request shall set forth any authority in addition to subsection*
15 *(a) for such access and the reasons such access is desired.*
16 *The head of the department or establishment concerned shall*
17 *have a period of twenty days from the date of receipt to re-*
18 *spond to the written request of the Comptroller General. The*
19 *response shall describe any books, documents, papers, or rec-*
20 *ords withheld and the reasons therefor. If within such*
21 *twenty-day period full access to such books, documents,*
22 *papers, or records has not been afforded the Comptroller*
23 *General or any of his designated assistants or employees, the*
24 *Comptroller General may file a written report of the matter*
25 *with the President of the United States, the Director of the*

1 *Office of Management and Budget, the Attorney General, the*
2 *head of the department or establishment concerned, and with*
3 *the Speaker of the House of Representatives and the Presi-*
4 *dent of the Senate.*

5 “(2) *Subject to subsection (d) the Comptroller General,*
6 *through any attorney designated by him in writing, may,*
7 *after twenty calendar days after the filing of a written report*
8 *under paragraph (1), apply to the United States District*
9 *Court for the District of Columbia for any order requiring*
10 *the head of the department or establishment concerned to pro-*
11 *duce the material withheld. The Attorney General is author-*
12 *ized to represent the defendant official in such proceedings.*
13 *Any failure to obey an order of the court under this subsec-*
14 *tion may be treated by the court as a contempt thereof.*

15 “(c)(1) *Subject to subsection (d), the Comptroller Gen-*
16 *eral may require by subpoena the production of books, records,*
17 *correspondence, memoranda, papers, and documents of con-*
18 *tractors, subcontractors, or other non-Federal persons to*
19 *which he has access by law or by agreement of the non-Fed-*
20 *eral person from whom access is sought. Subpenas may be*
21 *issued under the signature of the Comptroller General and*
22 *shall identify the material sought and the authority on which*
23 *access is based. Service of a subpoena issued under this sub-*
24 *section may be made by anyone authorized by the Comptrol-*
25 *ler General (A) by delivering a copy thereof to the person*

1 *named therein, or (B) by mailing a copy thereof by certified*
2 *or registered mail, return receipt requested, addressed to such*
3 *person at his residence, or principal place of business. A veri-*
4 *fied return by the person so serving the subpoena setting forth*
5 *the manner of service or in the case of service by certified or*
6 *registered mail, the return post office receipt signed by the*
7 *person so served, shall be proof of service.*

8 “(2) *In the case of contumacy or refusal to obey a sub-*
9 *pena issued under paragraph (1) of this subsection, by any*
10 *person who resides, is found, or transacts business within the*
11 *jurisdiction of any district court of the United States, such*
12 *court, upon application made by the Comptroller General*
13 *through any attorney designated by him in writing, shall*
14 *have jurisdiction to issue to such person an order requiring*
15 *such person to produce the matter requested. Any failure of*
16 *any such person to obey such order of the court may be treat-*
17 *ed by the court as a contempt thereof.*

18 “(d) *The Comptroller General may not bring an action*
19 *under subsection (b) for an order or issue a subpoena under*
20 *subsection (c) requiring the production of material—*

21 “(1) *if such material relates to activities designat-*
22 *ed by the President as being foreign intelligence or for-*
23 *ign counterintelligence activities;*

24 “(2) *if such material is specifically exempted*
25 *from disclosure to the Comptroller General by statute*

1 *provided that such statute (A) requires that the materi-*
2 *al be withheld from the Comptroller General in such a*
3 *manner as to leave no discretion on the issue, or (B)*
4 *establishes particular criteria for withholding from the*
5 *Comptroller General or refers to particular types of*
6 *matters to be withheld from the Comptroller General;*
7 *or*

8 *“(3) if the President or the Director of the Office*
9 *of Management and Budget within twenty days after*
10 *the filing of a report under subsection (b)(1), certifies*
11 *in writing to the Comptroller General, the Speaker of*
12 *the House of Representatives, and the President of the*
13 *Senate, that (A) such material consists of matters*
14 *which could be withheld from disclosure under section*
15 *552(b)(5) or 552(b)(7), of title 5 United States Code*
16 *and (B) the disclosure of such material to the Comp-*
17 *troller General could reasonably be expected to sub-*
18 *stantially impair the operations of the Federal Govern-*
19 *ment. Such certification shall be nondelegable by the*
20 *President or by the Director of the Office of Manage-*
21 *ment and Budget and shall be accompanied by a full*
22 *explanation of the rationale therefor.*

23 *“(e) Any written information, books, documents, papers,*
24 *or records made available to the Comptroller General pursu-*
25 *ant to this section shall be subject to the same level of confi-*

1 *dentality as is required of the agency from which obtained.*
2 *The officers and employees of the General Accounting Office*
3 *shall be subject to the same penalties prescribed by statute for*
4 *unauthorized disclosure or use as the officers or employees of*
5 *the agency from which such material was obtained. Informa-*
6 *tion described in section 552(b)(6) of title 5 of the United*
7 *States Code obtained by the Comptroller General shall be*
8 *maintained in a manner designed to prevent unwarranted*
9 *invasions of personal privacy.*

10 *“(f) Nothing in this section shall be construed as au-*
11 *thority to withhold information from Congress.”.*

12 *AVAILABILITY OF DRAFT REPORTS*

13 *SEC. 103. Section 312 of the Budget and Accounting*
14 *Act, 1921, (31 U.S.C. 53) is amended by adding at the end*
15 *thereof the following new subsection:*

16 *“(f)(1) No portion of any draft report prepared by the*
17 *General Accounting Office shall be submitted to any agency*
18 *for comment thereon for a period in excess of thirty days*
19 *unless the Comptroller General determines, upon a showing*
20 *by such agency, that a longer period is necessary and is*
21 *likely to result in improvement in the accuracy of such*
22 *report.*

23 *“(2) Failure of an agency to return comments by the*
24 *conclusion of the comment period established under para-*

1 *graph (1) of this subsection shall not result in the delayed*
2 *delivery of any such report.*

3 *“(3) Whenever an agency is requested to comment on a*
4 *draft report, the Comptroller General shall—*

5 *“(A) in the case of any report initiated, pursuant*
6 *to subsection (b) of this section or otherwise, at the re-*
7 *quest of either House of Congress or by any committee*
8 *or member thereof, make such draft report available on*
9 *request to such House, committee, or member; or*

10 *“(B) in the case of any other report, make such*
11 *draft report available on request to the Committee on*
12 *Governmental Affairs of the Senate and to the Com-*
13 *mittee on Government Operations of the House.*

14 *“(4) The Comptroller General shall prepare and issue*
15 *with the final version of any report of the General Account-*
16 *ing Office a statement of (A) any significant changes, from*
17 *any prior drafts of such report, in the findings, conclusions,*
18 *or recommendations which were based on an agency’s com-*
19 *ments on such a draft, and (B) the reasons for making such*
20 *changes.*

21 *“(5) Procedures followed pursuant to this subsection*
22 *shall be subject to statutory and Executive order guidelines*
23 *for the handling and storage of classified information and*
24 *material.”.*

1 APPOINTMENT OF THE COMPTROLLER GENERAL AND THE
2 DEPUTY COMPTROLLER GENERAL

3 SEC. ~~103.~~ 104. (a) Section 302 of the Budget and Ac-
4 counting Act, 1921 (31 U.S.C. 42) is amended by inserting
5 “(a)” before “There” and by adding at the end thereof the
6 following new subsection:

7 “(b)(1) Whenever, after the date of enactment of this
8 subsection, a vacancy occurs in the Office of Comptroller
9 General or in the Office of Deputy Comptroller General,
10 there is established a commission to recommend individuals
11 to the President for appointment to the vacant office. Any
12 such commission shall consist of—

13 “(A) the Speaker of the House of Representa-
14 tives,

15 “(B) the President pro tempore of the Senate,

16 “(C) the majority and minority leaders of the
17 House of Representatives and the Senate,

18 “(D) the chairman and ranking minority member
19 of the Committee on Government Operations of the
20 House of Representatives and of the Committee on
21 Governmental Affairs of the Senate, and

22 “(E) in the case of a vacancy in the Office of
23 Deputy Comptroller General, the Comptroller General
24 of the United States.

1 “(2) Any commission established under paragraph (1)
2 shall submit to the President for consideration the names of
3 not less than ~~five~~ *three* persons for the Office of Comptroller
4 General. The President, within his discretion, may request
5 that additional names be submitted.”.

6 (b)(1) The first paragraph of section 303 of such Act (31
7 U.S.C. 43) is amended by striking out the first sentence and
8 inserting in lieu thereof the following: “Except as otherwise
9 provided in this section, the Comptroller General shall hold
10 office for fifteen years and the Deputy Comptroller General
11 shall hold office from the date of his appointment until the
12 date on which an individual is appointed to fill a vacancy in
13 the Office of Comptroller General. The Deputy Comptroller
14 General may continue to serve until his successor is
15 appointed.”.

16 (2) The amendment made by paragraph (1) shall not
17 apply to the person occupying the position of Deputy Comp-
18 troller General on the date of enactment of this Act, but shall
19 apply with respect to any vacancy in such position occurring
20 on or after such date, and shall apply to any person appointed
21 to fill such a vacancy.

15

1 TITLE II—CONFORMING AMENDMENTS WITH RE-
2 SPECT TO THE INSPECTORS GENERAL OF
3 THE DEPARTMENTS OF ENERGY AND
4 HEALTH, EDUCATION, AND WELFARE
5 AMENDMENT TO THE ACT OF OCTOBER 15, 1976

6 SEC. 201. Section 203(b) of the Act of October 15,
7 1976 (90 Stat. 2430; 42 U.S.C. 3523), is amended to read as
8 follows:

9 “(b) In carrying out the responsibilities specified in sub-
10 section (a)(1), the Inspector General shall—

11 “(1) comply with standards established by the
12 Comptroller General of the United States for audits of
13 Federal establishments, organizations, programs, activ-
14 ities, and functions;

15 “(2) establish guidelines for determining the ap-
16 propriate use of non-Federal auditors; ~~and~~

17 “(3) take appropriate steps to assure that any
18 work performed by non-Federal auditors complies with
19 the standards established by the Comptroller General
20 as described in paragraph ~~(1).~~ (1); and

21 “(4) *shall report expeditiously to the Attorney*
22 *General whenever the Inspector General has reason-*
23 *able grounds to believe there has been a violation of*
24 *Federal criminal law.*”.

1 AMENDMENT TO THE DEPARTMENT OF ENERGY

2 ORGANIZATION ACT

3 SEC. 202. Section 208 of the Department of Energy
4 Organization Act (42 U.S.C. 7138) is amended by adding at
5 the end thereof the following new subsections:

6 “(h) In carrying out the responsibilities specified in sub-
7 section (b)(1), the Inspector General shall—

8 “(1) comply with standards established by the
9 Comptroller General of the United States for audits of
10 Federal establishments, organizations, programs, activ-
11 ities, and functions;

12 “(2) establish guidelines for determining the ap-
13 propriate use of non-Federal auditors; and

14 “(3) take appropriate steps to assure that any
15 work performed by non-Federal auditors complies with
16 the standards established by the Comptroller General
17 as described in paragraph (1).

18 “(i) In carrying out his duties and responsibilities under
19 this section, the Inspector General shall give particular
20 regard to the activities of the Comptroller General with a
21 view toward avoiding duplication and insuring effective co-
22 ordination and cooperation.

23 “(j) In carrying out his duties and responsibilities under
24 this section, the Inspector General shall report expeditiously
25 to the Attorney General whenever the Inspector General has

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- 1 reasonable grounds to believe there has been a violation of
- 2 Federal criminal law.”.

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